

AMENDMENT TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

1(currently amended). A DNA construct comprising nucleic acid encoding an influenza virus gene, wherein said DNA construct consists of a plasmid backbone selected from the group consisting of pnRSV, V1, V1J, V1JR, V1Jns and V1Jneo and is capable of inducing the expression of an antigenic influenza virus gene product which induces an influenza virus specific immune response upon introduction of said DNA construct into animal tissues *in vivo* and resultant uptake of the DNA construct by cells which express the encoded influenza gene.

2(original). The DNA construct of Claim 1 wherein the influenza virus gene encodes nucleoprotein, hemagglutinin, polymerase, matrix, or non-structural human influenza virus gene products.

3(currently amended). A polynucleotide vaccine comprising a DNA construct which induces neutralizing antibody against human influenza virus, influenza virus specific cytotoxic lymphocytes, or protective immune responses upon introduction of said DNA pharmaceutical into animal tissues *in vivo*, wherein the animal is a vertebrate, and the polynucleotide vaccine consists of a plasmid backbone selected from the group consisting of pnRSV, V1, V1J, V1JR, V1Jns and V1Jneo and encodes an influenza virus gene which is expressed upon introduction into said vertebrates' ~~vertebrates~~ tissues *in vivo*.

Claims 4-6 (canceled).

7(original). A method for protecting against infection by human influenza virus which comprises immunization with a prophylactically effective amount of the DNA of Claim 1.

8(original). A method for protecting against infection by human influenza virus which comprises immunization with a prophylactically effective amount of the DNA of Claim 3.

9(currently amended). A method for protecting against infection by human influenza virus which comprises immunization with a prophylactically effective amount of the DNA of Claim 2 [4].

10(original). The method of Claim 7 which comprises direct administration of the DNA into tissue in vivo.

11(currently amended). The method of Claim 10 wherein the DNA is administered either as naked DNA in a physiologically acceptable solution without a carrier or as a mixture of DNA and a liposome, or as a mixture with an adjuvant or a transfection ~~trasfection~~ facilitating agent.

Claims 12-16 (canceled).

17(original). The method of Claim 7 wherein the organism being treated by the method is a human.

Claims 18-25 (canceled).